

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. 10/621,324
Filing Date: July 18, 2003
Applicant: Feihong Chen
Group Art Unit: 2616
Examiner: Moore, Ian N.
Title: Methods and Devices for Re-Routing MPLS Traffic
Attorney Docket: 129250-000979/US

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Mail Stop 16

July 27, 2008
Date

REQUEST FOR REFUND UNDER 37 CFR 1.26

Sir:

Applicant requests a refund of the Notice of Appeal fee (\$510.0) paid on December 26, 2007 and the Appeal Brief fee (\$510.00) paid on February 25, 2008. These fees were paid in error, due to the USPTO's inadvertent failure to mail an issued Advisory Action to the Applicant.

More particularly, Applicant filed an amendment after final rejection on December 11, 2007 and a Notice of Appeal on December 26, 2008.

Since no Advisory Action was received from the USPTO, Applicant filed an Appeal Brief on February 25, 2008, based on the presumption that the December 11, 2007 amendment after final had been entered.

At this point, the USPTO realized that the Advisory Action, issued on December 21, 2007, had never been mailed to the Applicant. The Office acted promptly to correct its oversight by re-issuing the Advisory Action; Applicant responded by filing an RCE (on June 4, 2008).

Thus, but for the PTO's error, i.e. had it received the original Advisory Action, Applicant never would have filed a Notice of Appeal or Appeal Brief in this case, and instead would have filed the RCE that it ultimately did.

Therefore, refunds of the Notice of Appeal and the Appeal Brief fees are clearly warranted.

As required by 37 CFR 1.26, this request is being filed within two years from the dates the fees were paid.

Please issue the refunds by crediting Deposit Account 50-3777.

If there are any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

/John E. Curtin/

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